

REMARKS/ARGUMENTS

Claims 21-28, 30-32, 35-42, 45-47, 50-52, 55 and 57-61 are pending in the captioned application. Claims 23-28, 30-32, 36-42, 46-47, 51-52, 55 and 61 are withdrawn from consideration. Claims 21-22, 35, 45, 50 and 57-60 are rejected.

Applicants herein cancel without prejudice claims 21-28, 30-32, 35-42, 45-47, 50-52, 55 and 57-61 and add new claims 62-70. New claims 62-70 correspond to the restriction group earlier elected for prosecution on the merits. Support for the claims newly added by amendment may be found throughout the specification, including claims as originally filed, and particularly in the specification on page 85, line 5 through page 86, line 20, on page 90, lines 1-14, and on page 152 lines 1-30. No new matter has been added.

The specification has been objected to. The Examiner requested an update of status of referenced applications. In response, Applicants have presented amendments to the specification to comply.

Claim 21 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. In particular, the Examiner regards that the use of the word “isolated” makes

the claim confusing. Solely to expedite prosecution, and without admission express or implied that the rejection is properly founded, Applicants herein cancel claim 21 without prejudice, obviating the rejection; new claims 62-70 are drawn to subject matter not subject to this rejection. Accordingly, the rejection has been obviated and Applicants respectfully submit that the rejection should be withdrawn.

Claims 21-22, 35, 45, 50 and 57-60 stand rejected under 35 U.S.C. §101 for allegedly lacking utility, and under 35 U.S.C. §112, first paragraph, for an alleged failure of the specification to teach one skilled in the art how to use the claimed invention. Applicants respectfully traverse this rejection.

However, solely to expedite prosecution, and without admission express or implied that the rejection is properly founded, Applicants herein cancel claims 21-22, 35, 45, 50 and 57-60 without prejudice, obviating the rejection; new claims 62-70 are drawn to subject matter not previously subject to rejection under 35 U.S.C. §101 or the how to use requirement of §112, first paragraph. Accordingly, the rejection has been obviated and Applicants respectfully submit that the rejections should be withdrawn.

Applicants reserve the right to prosecute the cancelled claims in one or more continuation or divisional applications.

Claims 21-22, 35, 45, 50 and 57-60 stand rejected under 35 U.S.C. §112, first paragraph, as containing subject matter that is not adequately described in the specification. Applicants respectfully traverse the rejection.

Solely for sake of expedition, however, and without admitting to the adequacy of the Examiner's *prima facie* case of unpatentability, Applicants have cancelled all of the rejected claims, formally obviating the rejection, and in the claims newly added by amendment herein have avoided the phrases that the Examiner suggests impermissibly broaden the claimed genera beyond the specification's written description: "conservative substitutions"; and "at least 8 contiguous amino acids". Further, the claimed proteins are required to have ATPase activity or are capable of binding calmodulin. Applicants respectfully submit that the genera now claimed are fully supported by the specification and that the rejection should be withdrawn.

Claims 21-22, 35, 45, 50 and 57-60 stand rejected under 35 U.S.C. §112, first paragraph, for inadequate scope of enablement. Applicants respectfully traverse the rejection.

Solely to expedite prosecution, however, and without admitting to the adequacy of the Examiner's *prima facie* case of unpatentability, Applicants have cancelled all of the rejected claims, formally obviating the rejection, and in the claims newly added by

amendment herein avoid the phrases to which the Examiner objects as impermissibly broadening the claimed genera beyond the ability of the skilled artisan to make and use the invention to its full scope. Applicants thus respectfully submit that the rejection would be in error if reasserted against the claims newly added by amendment herein, and respectfully request its withdrawal.

Claims 22, 35, 45, 50 and 57-58 stand rejected under 35 U.S.C. §102(b), as being anticipated by Lehner et al. (WO 96/23886). Applicants respectfully disagree.

Solely to expedite prosecution, however, and without admitting to the adequacy of the Examiner's *prima facie* case of anticipation, Applicants have cancelled all of the rejected claims, formally obviating the rejection, and in the claims newly added by amendment herein avoid the phrase which led to this rejection: "at least 8 contiguous amino acids". Accordingly, the rejection has been obviated and Applicants respectfully submit that the rejections should be withdrawn.

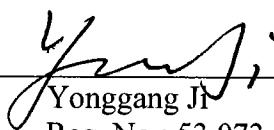
Applicants respectfully assert that the claims are in allowable form and earnestly solicit the allowance of claims 62-70.

Appl. No. 10/723,361
Amendment dated December 5, 2006
Reply to Office action of September 5, 2006

Early and favorable consideration is respectfully requested.

Respectfully submitted,

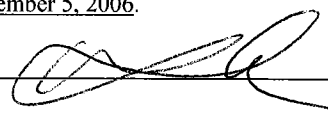
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